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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,461	09/29/2000	Tom L. Bogart	042390.P9019	1603

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EXAMINER
KIANERSI, MITRA

ART UNIT	PAPER NUMBER
2143	4

DATE MAILED: 04/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/677,461	BOGART ET AL.
	Examiner	Art Unit
	mitra kianersi	2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>03</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>21 January 2004</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-29</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-29</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>29 September 2000</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

Response to Arguments

Applicant's arguments filed Jan/21/2004 have been fully considered but they are

not persuasive.

Applicant on page 10, line 5, argues that Kalwitz does not disclose retransmission of

data not received by the network peripheral device. Examiner's reply; Kalwitz in Fig 11,

step 324 LSL provides a data group corresponding to the frame packet types.

Examiner's Interpretation: in Fig.11, first protocol SPX step 326, second protocol TCP

step 336. If a Protocol is Unix compatible would not be received by first protocol SPX

are the target electronic systems. System be transmitting using second protocol that is

TCP.

Applicant on Page 10, lines 15-21 argues that Willis discloses transmission from

multiple servers to a single network device using multiple protocol. Examiner's reply:

Willis in col 15 teaches multiprotocol using IPSec, SSl, or SHTTP etc.

The motivation to combine Kalwitz into Willis in order to improve the functionality of

Willis invention in fig.1 using multiprotocol environment operation in multi operating

system protocols.

For pages 11 and 12 refer to above explanation. All dependent claims are also not

allowable for the reasons above.

Claims 1-29 have been examined.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Willis et al. (US 6,385,647) and further in view of Kalwitz et al. (US 5,784,622).

1.   As to claim 1, Willis et al. discloses a method comprising:

-transmitting data over a network using a first network protocol from a host electronic system to one or more target electronic systems; (Abstract, lines 3-8)

-determining data not received by at least one of the target electronic systems;

-requesting from the host electronic system, be transmitted using the first network protocol (the receiving facility will examine the status of the transmission and if the transmission was unsuccessful, the receiving facility will transmit information indicating an error status to the source, and the source will respond by transmitting the multicast data again, thus providing reliable data delivery. col 4, lines 36-40)
Willis et al. does not explicitly teach when the data not received by at least one of the target electronic systems using a second network protocol.
However, Kalwitz et al. teach a multiprotocol operation of a networked peripheral
Where the first and second servers are linked to their respective operating systems across the local area network through respective first and second protocol stacks operating on the interactive network board and, if desired, the first and second servers may be multitasked by a non-preemptive multitasking monitor. (Col 2, lines 28-34)
Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a second network protocol with Willis et al. method of transmitting data to improve scalability and economy through the use of the industry standard non-proprietary software transport mechanism (IP) at the receiving facility.

2.   As per claim 2, wherein the first network protocol is a non-reliable network protocol. (multicast routing protocol is used which is an unreliable network

protocol, Table 1. Willis et al.)

3.   As per claim 3, wherein the non-reliable network protocol comprises one of a broadcast protocol and a multicast protocol. (col 3, lines 55-58, Willis et al.)

4.   As per claim 4, wherein the second network protocol is a reliable network protocol. (col 4, lines 41-42, Willis et al.)

5.   As per claim 5, wherein determining data not received by at least one of the target electronic systems further comprises logging, with a checkpoint (checksum 345, Willis et al.) management service, packets of data received by the target electronic systems. (Fig.10), (col 16, lines 57-67) and (col 17, lines 1-13, Willis)

6.   Claims 6-9, recite similar limitations as claim 1-4. They are analyzed and rejected by the same rationale.

7.   As per claim 10, wherein the sequences of instructions that cause the one or more electronic systems to determine data not received by at least one of the target electronic systems further comprise sequences of instructions that, when executed, cause the one or more electronic systems to log, with a checkpoint management service, packets of data received by the target electronic systems. (Processor or chip in a computer that carries out all the instructions of a program, Table 3 and col 9, lines 7-10, Willis et al.)

8.   Claims 11-13 recite similar limitations as claim 1-3. They are analyzed and rejected by the same rationale.

9.   Claim 14 recites similar limitations as claim 10. It is analyzed and rejected by the same rationale.

10.   Claim 15 recites similar limitations as claim 4. It is analyzed and rejected by the same rationale.

11.   As per claim 16, a method comprising: transmitting a predetermined set of data using a first network protocol to multiple target systems; (col 4, lines 48-51, Willis et al.) receiving one or more requests from at least one target system for subsets of data from the predetermined set of data; transmitting the subsets of data to at least one target system using a second network protocol. (Kalwitz et al. Col 17, lines 2-6)

12.   As per claim 17, wherein transmitting a predetermined set of data
using a first network protocol to multiple target systems comprises logging transmitted
packets of data with a checkpoint management service for one or more of the target
systems. (Via Checksum verification, col 23, line 19, Kalwitz et al.)

13.   Claims 18-19 recite similar limitations as claims 2 and 4. They are analyzed and
rejected by the same rationale.

14.   Claims 20-23 recite similar limitations as claims 16-19. They are analyzed and
rejected by the same rationale.

15.   As per claim 24, a method comprising receiving at least a portion of a
predetermined set of data from a host system using a first network protocol; loading at
least some of the modules from the binary file, col 21, lines 65-67)
generating one or more requests from for subsets of data from the predetermined set of
data; receiving the subsets of data from the host system using a second network
protocol. (processing unit generates a first address in the memory to cause a
first bit to be in a predetermined state in response to the I/O signal, col 22, lines 16-18,
Kalwitz et al.)

16.   Claims 25-29 recite similar limitations as claims 22-26. They are analyzed and
rejected by the same rationale.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Mitra Kianersi whose telephone number is (703) 305-

4650. The examiner can normally be reached on 7:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, David Wiley can be reached on (703) 308-5221. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

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published applications may be obtained from either Private PAIR or Public PAIR.

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Business Center (EBC) at 866-217-9197 (toll-free).

Mitra Kianersi
April/05/2004

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